# Tree Farm Licences in British Columbia

BC Ministry of Forests

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## A brief history

The Province of British Columbia, since the earliest days of colonial settlement, has generally retained ownership of the timberlands for itself and disposed of the timber through cutting rights. By the 1880s the government of the day was deliberately allocating timber to foster the development of a timber-processing industry. By the 1890s the government was requiring Crown timber to be processed by conversion facilities located in B.C.

Timber allocation methods up to the end of the Second World War were very much a consequence of the quest for economic development and government revenues.

The post-war methods of access to Crown timber added an extra concern: the prudent protection and conservation of the timber base through sustained yield management.

The Tree Farm Licence and the Forest Licence are today the two main forms of industrial access to Crown timber in British Columbia. The Tree Farm Licence form of tenure was introduced in 1947 to provide for the management of private lands, older — typically "temporary" -- tenures, and other Crown lands as a single entity.

## TFL basics

The Tree Farm Licence fulfils two functions. One is a forest management function. It ensures the province's forests are continually used to grow successive tree crops that are managed to generate the best possible combination of benefits. Second, the Tree Farm Licence tenure assures the province's entrepreneurial community of the secure and stable timber supply it needs to attract the investments with which it has built — and continues to build — a world-class forest products industry.

A Tree Farm Licence carries long-term implications, then, for both the use of the Crown lands involved and for the communities that surround the lands included in the licence.

A Tree Farm Licence is awarded after an extensive review of a timber-use proposal submitted by a member — or prospective member — of the forest products industry. The proposal is first examined at a public hearing. This ensures the public is fully aware of the proposal. And it provides a forum for members of the public, especially those whose interests may be affected, to make their concerns known. It also provides a forum, if the application is for a new licence, at which competing applications may be evaluated.

In 1982, the new Forest Act of 1978 was amended to make it possible to elevate a Forest Licence or a combination of licences held by a company into a Tree Farm Licence. The amendment does not provide for the submission of competing proposals.

The timber must be harvested at a more or less constant annual rate equal to the Allowable Annual Cut approved from time to time under management and working plans the province requires of the licence-holder.

The secure right to harvest the future timber crops in the licence is an incentive to enhance the timber growth and productivity of the lands in the licence. This

security ensures not only an increased flow of benefits to the licence holder, but to the people of the province.

### Twenty-five year terms

Each licence has a term of 25 years and, at 10-year intervals, 25-year replacement licences are offered. This provides an opportunity to revise and modify the conditions in the existing licence with a replacement licence. If the licence-holder does not accept the changes, the agreement then will continue for its remaining 15 years with no further replacement rights.

The replacement process can be terminated by the government by including a clause to that effect in the replacement licence offered. That gives the holder a 25-year notice of termination.

### Area-based tenures

A Tree Farm Licence is an area-based tenure. It grants rights to manage the timber and forest growth capability of the area according to management and working plans approved from time to time. It also grants rights to obtain cutting permits from time to time to harvest the Allowable Annual Cut under the management and working plan.

The licence restricts the licence-holder to initiatives detailed in the management and working plan approved by the province's Chief Forester. The plan presented to the Chief Forester must describe the measures to be taken for managing the forest resources and for fulfilling other requirements. It must also identify other resource values and indicate how the timber resource will be managed to accommodate those other values and the legitimate rights of other users of the lands and forests.

### More than trees

In determining what lands are to be included in the Tree Farm Licence, both the submissions received at the public hearing and the implications for surrounding lands and for other natural resources are considered.

Normally, the objectives of management can best be served by the inclusion, in the Tree Farm Licence, of all the land in the drainage. This often results in the inclusion of non-timbered, alpine and barren lands. Although inclusion of non-timbered lands is sometimes questioned, their inclusion is valid and logical except in those instances where there is a specific reason for not doing so. The forest resource is more than just trees and timbered land; it is a dynamic complex of interlocking values. Because the uses of the timbered and non-timbered lands are inevitably interlocked, resource management efficiency will usually be enhanced where they are developed within a single administrative unit.

### Surrounding lands

A Tree Farm Licence is not intended to have any effect on the surrounding land, but realistically any property owner is certain to be apprehensive about and possibly affected by the actions of his neighbour.

The implications of a Tree Farm Licence for the surrounding lands is generally assessed when the licence application or its management and working plan is

considered. One of the purposes of the public hearing process is to provide an opportunity for members of the public to bring their concerns forward and for the government to address them.

When a new Tree Farm Licence is being considered every effort is made to adjust the boundaries to heights of land and other natural features to minimize risks of conflicts with uses of adjacent lands, but in many instances surveyed lot boundaries must also be used.

### Crown and private lands

The area of the Tree Farm Licence is designated in legal descriptions or schedules. The lands the licence-holder brings to the licence, if any, are specifically listed in Schedule A. These lands may come under two categories, old licences and privately owned lands. The lands the province contribute are known as Schedule B lands. The Schedule A lands are subject to the management requirements of the licence, but their ownership and tenure status remains unchanged. Land surface rights owned or controlled by others are specifically excluded. Specific blocks of land may also be excluded from the description when the Tree Farm Licence is granted.

### Other land uses

The licence does not cover grazing or other non-timber rights so the licence-holder is not in a position to authorize non-timber uses. Non-timber uses of the Crown land can only be authorized by the Ministry of Forests or another provincial ministry or agency.

Section 58 of the Forest Act asserts that no agreement made under the act prevents the province from using or authorizing the use of its land for any purpose compatible with timber harvesting.

Where other uses to be authorized are compatible with the purpose of the Tree Farm Licence, the lands remain subject to the licence. If they are not compatible the land must be deleted from the Tree Farm Licence.

### Deletion of land

A Tree Farm Licence is a contractual agreement and land may be deleted at any time with the consent of both the Minister of Forests and the licence-holder. In addition, there are specific provisions in the Forest Act for deleting land from a Tree Farm Licence. Those provisions allow the Minister of Forests to delete land unilaterally for any purpose, other than timber production, by giving one year's notice to the licence-holder.

That action is normally only taken if the land is needed for public purposes or for higher use than forest production. Depending on circumstances the licence-holder might be permitted to harvest the timber on the land before it is deleted from the licence. Although the extent of the land deletions possible under the one-year provision is unlimited, compensation becomes payable if the deletions cumulatively exceed certain levels.

Land deletions are provided for under two categories: one for rights-of-way and water storage; one for all other purposes except timber production. For compensation purposes, the two categories are treated independently of each other.

For each one, compensation becomes payable for any deletions beyond five per cent during a deletion period. Each consecutive 25-year period constitutes a new deletion period independent and irrespective of the replacements of the agreement at 10-year intervals. The five per cent is based on the approved Allowable Annual Cut at the beginning of the deletion period rather than on an area basis.

### Timber sales to others

A Tree Farm Licence generally provides the licence-holder with exclusive timber harvesting rights, but it does not preclude the province, under special circumstances, from selling the timber to other parties. There are three provisions, basically, for an extra-licence sale:

1. The licencing agreement may authorize the sale of timber to other parties.
2. The failure of the licence-holder to remove damaged or wind thrown timber.
3. The failure of the licence-holder to harvest the minimum volume of timber required under the licence.

### Logging contractors

Each year a portion of the timber harvested from a Tree Farm Licence must be logged by logging contractors. The Forest Act requires that the portion stipulated in licencing agreements must be at least 50 per cent.

That percentage is stipulated in all existing agreements. The percentage is applied to the portion of the Allowable Annual Cut that is derived from the Schedule B Crown lands. For example, if the Crown lands account for 88 per cent of the Allowable Annual Cut on the licence, then the contractors' portion of the harvest from the Tree Farm Licence must be at least 44 per cent.

For new licencing agreements the percentage may be fixed at 50 per cent or higher. The contracted volume may come from any of the lands in the licence, and the minimum volume requirement will increase or decrease each year to the same extent that the total volume harvested from the Tree Farm Licence fluctuates.

Under present regulations, at least 70 per cent of the volume set aside for contractors — 70 per cent of the 44 per cent in the above example — must be harvested by all-phase contractors; the balance would be harvested by phase contractors. The term of a full contract must run at least five years; the term of a phase contract, two years. The regulation allows a Regional Manager of the Ministry of Forests to specify fewer phases as a full contract where they comprise a substantial proportion of the operation.

The regulations also allow the Minister of Forests to relieve the licence-holder of its contractual obligations if compliance proves not feasible.

### Harvest requirements

The licencing agreement includes a harvesting commitment by the licence-holder. In each calendar year the harvest by the licence-holder must be within 50 and 150 per cent of the Allowable Annual Cut. In each consecutive period of five years, the harvest must be within 90 and 110 per cent of the sum of the Allowable Annual Cut for those five years. Monetary penalties for breaking the

requirements may be assessed.

### Management and working plans

The forest resources of a Tree Farm Licence must be managed under successive management and working plans prepared by a professional forester and approved by the Chief Forester of the province.

The plan, firstly, contains the technical information and calculations from which the Chief Forester can determine the Allowable Annual Cut. It also proposes:

1. Fire and insect protection measures.
2. Reforestation and silviculture measures.
3. Sequential harvesting developments.
4. Public recreation uses.
5. Methods of coordinating the management and harvesting of the timber in the licence with the management of other renewable resources by other government agencies.
6. Other measures peculiar to the management of the particular licence.

Ministry policy requires that the public and interested parties have an opportunity to examine and comment on each management and working plan before it is approved by the Chief Forester.

### Development plans

Five-year development plans are required detailing the logistics of timber harvesting. These plans are updated annually or as required by a Regional Manager of the Ministry of Forests with projections for the ensuing five years.

### Cutting permits

The licence-holder must obtain cutting permits for the harvesting of any timber from any lands in the licence.

Cutting permits are issued only in accordance with the management and working plan and the development plan.

The licence-holder submits applications for the cutting permits and provides all the specific information about the timber and topography of the cutting permit areas that is needed for determining the content of the cutting permits and for appraising the stumpage rates.

### Stumpage and rent

Stumpage rates for the timber from Schedule B Crown lands are determined for each cutting permit under stumpage appraisal procedures and government timber-pricing policies that are standard throughout the province.

Timber royalties are paid on timber cut from the timber licences included in the Schedule A lands. The royalty rates are set out in the Forest Act. After the present old growth is removed from those timber licences they are switched from Schedule A to Schedule B lands, making stumpage payable on future crops.

No stumpage or royalty is payable for timber cut from privately owned lands.

An annual rent of 45 cents per cubic metre of the Allowable Annual Cut from the Crown lands in Schedule B of the licence is payable independently of the timber volume harvested. In addition, a rent of $1.25 per hectare is payable on Timber Licences in the Tree Farm Licence. These Timber Licences are listed in Schedule A of the agreement.

### Stumpage credits

Under Section 88 of the Forest Act, the province can and does reimburse forest product companies for the cost of some forestry work. The reimbursement is provided through credits against stumpage due the province for harvested timber and is known throughout the B.C. industry as Section 88 credits.

The work for which the holder of a Tree Farm Licence gets a stumpage credit is usually proposed by the licence-holder and approved by the Ministry of Forests. The ministry's decision must take into account other proposals for stumpage credits and its own funding limitations. An agreement that is actually an addendum to the Tree Farm Licence is signed, establishing the value of the stumpage credit, before any work begins.

During the course of the work, cost claims are submitted to the province for verification and acceptance. Upon approval the amounts are applied in payment of the stumpage accounts due. If there is no stumpage against which the credits may be applied, the credits are banked for future use.

Stumpage credits cannot be transferred to other licence-holders. They can only be applied to stumpage on certain timber — timber from a "prescribed area." For a Tree Farm Licence, this means that the credits for certain site specific forestry expenditures like roads, slash disposal and reforesting the cutting permit areas must be applied toward the stumpage payable for timber harvested from the Tree Farm Licence. Approved credits for tree nurseries and seed orchards may be applied to pay the licence-holder's stumpage anywhere in the province.

Section 88 stumpage credits cannot be used to pay for work on private land nor for roads or reforestation on royalty bearing Timber Licences. (No Tree Farm Licence holders elected to pay stumpage on their Timber Licences under Section 82 of the Forest Act.)

### Silviculture responsibilities

The licence-holder is responsible for identifying and providing silvicultural treatments and practices to forest lands in a Tree Farm Licence.

The major portion of the costs of silviculture on the stumpage-bearing Crown lands in Schedule B of the Tree Farm Licence is either treated as appraisal allowances in the stumpage appraisals or reimbursed through Section 88 stumpage credits.

In a broad sense silviculture comprises all aspects of the art and science of growing and reproducing forest stands on a continuing basis. The methods used are variable indeed and, to succeed, must be adapted to the forest conditions. They

include collection and stratification of tree seed, provision of seed production areas and seed orchards, growing seedlings, site preparation, planting, brushing and weeding, the protection, care and tending of the growing stands, fertilization, spacing and thinning, pruning, harvesting, slash disposal, weeding and rehabilitation of non-productive sites. Because logging and logging techniques can have a significant influence, the timber harvesting process or certain aspects of it can form part of the silvicultural process.

The holder of a Tree Farm Licence is generally expected to undertake whatever silvicultural treatments are required to provide a subsequent crop of timber after an area is logged. In clearcut areas, this calls for establishing "free-growing" seedlings in sufficient numbers within an acceptable time period. The licence-holder is also expected to provide for the establishment of a forest crop of average growth capability on other harvested forest lands, and to protect the forest from fire and insect losses. In addition, the licence-holder is encouraged to undertake various intensive silviculture practices which will enhance the growth and value of future forests. These treatments are described in management and working plans submitted for the approval of the Ministry of Forests.

The Ministry of Forests' role is to ensure, on behalf of the public, that the holder of the Tree Farm Licence diligently meets its management and silvicultural responsibilities. This is done through the processes of approving the management and working plans and development plans, issuing the cutting permits and monitoring the results.

## Public access

By and large the general public has unimpeded access to all Crown land in a Tree Farm Licence, although it may not obstruct the forestry operations of the licence-holder. The licence-holder, however, retains full right, title and control over its privately owned land, if any.

Subject to industrial safety considerations and road use restrictions or regulations, the public may use any logging roads on Crown lands for non-commercial or non-industrial purposes. Industrial use of logging roads may be subjected to permits from the Ministry of Forests or from the Tree Farm Licence holder, but legitimate use cannot be refused. Where appropriate, the other industrial or commercial users may be expected to share some of the road construction and maintenance costs.

The holder of a Tree Farm Licence, like any other land owner, may refuse permission to any person to enter or cross its privately owned land. Where a road crosses private land the land owner may control its use. (There are some exceptions where laws allow land or a right-of-way to be taken or expropriated.) Frequently main roads are resource or Forest Service Roads. Where a Forest Service Road passes through private land, the province normally will have obtained title to the right-of-way through the private land and any industrial use of the road will be subject to Forest Service control or authorization.

## Property protection

The use of structures and improvements is subject to the control of their rightful owner. The holder of a Tree Farm Licence must avoid damaging such things as grazing improvements, power and telephone lines, domestic water improvements, pipelines, authorized cabins and buildings, mining installations and any other property

of legitimate users. Similarly other users must respect the property and improvements on the Tree Farm Licence, whether owned by the licence-holder, logging contractors or holders of other tenure.

A logging road is viewed, technically, as an improvement on the land. The right to travel across land does not automatically include the right to use a road, but there are special provisions relating to logging roads in Part 8 of the Forest Act, previously indicated under the proceding heading "Public Access". In addition, the Act deals with the designation of certain roads as "Forest Service Roads" the use of which is subject to Forest Service Road Regulations. Certain other roads are deemed to be owned by the holder of the road permit authorizing the construction of the road and are not subject to those Regulations, but are subject to the Highway (Industrial) Act and its regulations.